IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	Docket No. 13 CR 00476
	)	
Plaintiff,	)	Chicago, Illinois
	)	December 12, 2013
v.	)	9:45 a.m.
	)	
SALVADOR ELIAS, et al.,	)	
	)	
Defendants.	)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HARRY D. LEINENWEBER

APPEARANCES:

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(In open court.)

THE CLERK: 13 CR 476, United States versus Salvador Elias, Adrian Elias, Olson, Ledesma, Reding, Sistrunk, Stevens, and Washington.

MR. EDENFIELD: Good morning, your Honor. Scott Edenfield for the United States.

MR. FRANKEL: Good morning, your Honor. Scott Frankel on behalf of Paul Reding.

And, Judge, I'm stepping in for Josh Adams who represents Defendant Sistrunk, and Gerardo Gutierrez who represents Defendant Ledesma.

MR. SHEPPARD: Good morning, your Honor. Adam Sheppard on behalf of Deeric Stevens, who is present before this Honorable Court.

MR. HESLER: Dan Hesler on behalf of Adrian Elias, who is present on bond. I'm standing in for Piyush Chandra.

MR. GREENE: Good morning, Judge. I'm J. Clifford Greene on behalf of Mishon Washington.

I'm also standing in for Paul Camarena, who represents Defendant Number 1, Mr. Elias.

MR. GRAPSAS: Nicholas Grapsas on behalf of Demetrio Benitez, who is in custody before your Honor.

MR. GRANEY: Ed Graney for Angel Olson. I'm standing in for Viviana Ramirez.

MR. FRANKEL: Judge, I should point out Mr. Reding is also present in court on bond.

THE COURT: Okay. Status?

MR. EDENFIELD: Your Honor, before the Court is a, I think a now fully briefed motion on -- seeking discovery on select prosecution.

And beyond that, I think we're waiting for the Court's ruling on that, and then we'll be moving forward.

THE COURT: All right. Well, I've got a ruling on it this morning.

Before the Court is plaintiff's motion for discovery. For the reasons that follow, the motion is granted.

Defendants in this case are charged with conspiracy to rob a so-called drug stash house.

On May 14, 2013, an ATF confidential informant met with defendant Salvador Elias. They discussed a plan to rob drug dealers of large quantities of drugs before the drugs could be distributed. Defendant Elias and the informant then met with an undercover ATF agent to discuss specifics. Defendant Elias organized a crew and prepared for a home invasion style robbery of the stash house. But there was no stash house and no drugs to steal. When defendants arrived for the robbery, they were arrested.

Defendants seek to pursue a defense that the ATF targets minorities when it creates these stash house stings.

Defendants have requested that the Court permit discovery relevant to that defense. In support of their motion, they explain that since 2006 there have been at least 16 cases like this one that involve a phony stash house. In those cases, an overwhelming number of the defendants were African-Americans and the rest were Latino.

To obtain discovery in support of selective prosecution claim, the defendant must make a credible showing of different treatment of similarly situated persons. *U.S. versus Armstrong.*

The Court is mindful that the executive branch retains broad discretion to enforce this nation's criminal laws and enjoys a presumption that its officers have discharged their official duties properly.

This District was confronted with this precise issue two times earlier this year. In both cases, defendants presented these same statistics and arguments. Chief Judge Castillo, who presided over both cases, granted the motions to permit discovery after he concluded that the defendants had made a strong showing of potential bias in the history of the prosecution of so-called phony drug stash house rip-off cases. *U.S. versus Williams* and *U.S. versus Brown.*

In all of these cases, the overwhelming majority of targets are African-American and Latino. It is true that one of the defendants in this case, Paul Reding, is white; but that fact does not create a meaningful distinction between this case and *Williams* or *Brown* because the ATF investigation did not target that defendant, and the Government became aware of his participation only once he appeared for the robbery and was arrested with all of his co-defendants. Because defendants in this case have made the same showing as did the defendants in *Williams* and *Brown*, the same result must attach.

Accordingly, the Government must provide discovery on the three limited subjects identified on page 7 of the motion.

What else is going on in the case?

MR. EDENFIELD: Your Honor, I think that's all that's going on in the case at this point.

THE COURT: So have another status in some --

MR. FRANKEL: Right. We'll need another status on the discovery.

THE COURT: 30 days?

MR. EDENFIELD: Yes, your Honor, that should be fine from the Government's perspective.

THE COURT: All right.

THE CLERK: January 16th at 9:00.

THE COURT: Any objection if I exclude time in the interest of justice and --

MR. FRANKEL: No, your Honor.

COURT REPORTER: Can you repeat that?

THE COURT: Let me put it this way into the positive:

Who among the defendants objects to the exclusion of time?

(No response.)

THE COURT: That includes everybody -- am I correct in assuming that everybody does not object to the exclusion of time?

MR. FRANKEL: Correct.

MR. GRANEY: Correct.

MR. GREENE: Correct.

MR. HESLER: Correct.

MR. SHEPPARD: Correct.

MR. GRAPSAS: Correct.

THE COURT: I think that's the only way -- all right. Time will be excluded.

MR. SHEPPARD: Your Honor, may I inquire?

I am unavailable on January 16th. I have got four other matters, on behalf of Deeric Stevens. I could have -- maybe one of my colleagues could step in --

THE COURT: If one of your colleagues could do that, that would be helpful.

MR. SHEPPARD: Okay.

THE COURT: Okay. Thank you.

MR. SHEPPARD: Thank you.

(Proceedings concluded.)

C E R T I F I C A T E

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter.

/s/ GAYLE A. McGUIGAN — *February 3, 2014*

Gayle A. McGuigan, CSR, RMR, CRR — Date

Official Court Reporter

_____________________________ — *February 3, 2014*

Gayle A. McGuigan, CSR, RMR, CRR — Date

Official Court Reporter